

**PROPOSAL #1 - MENU OF OPTIONS – RIGHT TO INDIVIDUAL
CASE MANAGEMENT AND TRACKING**

PROPOSED AMENDMENT TO SUPERIOR COURT STANDING ORDER 1-88

Superior Court Standing Order 1-88 shall be amended by adding a new Part after existing Part B.

The new Part shall read:

INDIVIDUAL TRACK

(1) By order of the court, or stipulation of the parties, a civil action shall be assigned to its own individual track, which shall supersede the requirements of this standing order, provided that all deadlines in the individual track occur no later than the tracking order dates applicable to the case type, as established by the “Schedules of Case Types by Track,” below.

(2) Any party wishing assignment to an individual track must complete and submit the form “Motion For Case-Specific Management” appearing in the Appendix of Forms to the Superior Court Rules and available for download on the Superior Court’s website. See Superior Court Rule 20.

(3) The session judge assigned to the case will endorse the Motion in accordance with Superior Court Rules 9A and 20.

PROPOSED NEW SUPERIOR COURT RULE

Rule 20. Right to Individual Case Management and Tracking

Any case may receive individual management or tracking so that the parties may secure a cost-effective means to resolve their dispute. To that end, the parties are encouraged to consider and propose options to achieve a less costly and more expeditious resolution of their dispute. This rule sets forth a non-exclusive mechanism to implement any such proposals, while reserving the parties’ ability to exercise their full procedural and substantive rights if they so choose.

1. One or more parties may seek individual case management or tracking pursuant to this rule. If all parties agree, they shall have the right to individual case management to the extent provided in paragraph 2 below. In the absence of unanimity among the parties, any party has a right to request that the judge exercise discretion to adopt individual case

management or tracking in the interest of fair, timely, cost-effective and efficient resolution or litigation of the case.

2. All parties may agree to each of the following, unless the session judge specifically orders otherwise in writing for good cause:
 - a. Immediate or early court conference for scheduling or case management (in person or by phone, as requested if feasible).
 - b. Early, non-binding judicial assessment of the case.
 - c. Immediate scheduling of a prompt and firm trial date (preferably agreed-upon), which the court will make every effort to accommodate.
 - d. Scheduling of mediation, arbitration or other private dispute resolution.
 - e. Changes to standard pretrial deadlines, including changes shortening the tracking order dates, the waiving of certain pre-trial motions such as R. 12 or R. 56 motions and, in medical malpractices cases, the waiver of the full statutory tribunal either in its entirety or so as to permit a prompt tribunal with the judge alone.
 - f. Limits on discovery (by way of illustration: specific limitations on the subject matter of discovery, changes in the scope of discovery, procedures governing discovery disputes, limitations on eDiscovery, and the number or length of discovery events).
 - g. Limits on oral arguments/court appearances not specifically requested by the motion judge (by way of illustration: decision of categories of motions without argument; providing for telephonic argument). Note that, on specific matters or motions, the judge may still schedule arguments or appearances that s/he anticipates will be necessary or helpful.
 - h. Trial to a judge without a jury with or without additional conditions (by way of illustration: waiver of detailed written findings of fact and law; an agreement that expert testimony (in part, for example direct testimony, or in full) may be in writing; or agreement as to the number of witnesses, maximum trial time for each side's evidence and/or total length of trial).
 - i. Limitations on a trial by jury (including, by way of illustration: agreement to a jury consisting of 6-8 people, waiver of attorney voir dire or agreement to accept a verdict from fewer than 5/6 of the jurors, an agreement that expert testimony (in part, for example direct testimony, or in full) may be in writing and agreement as to the number of witnesses, maximum trial time for each side's evidence and/or total length of trial).
 - j. Waiver of, or limitations on, the rights to appeal and to file post-trial motions.
 - k. Any other proposals acceptable to the parties and the court.

3. One or more parties may, without consent of all parties, move for any order granting the relief set forth in paragraph 2 and may make additional proposals for consideration by the court. Nothing in this Order, however, purports to authorize the court to restrict any party's right, if protected by law from impairment over that party's objection.
4. Any party making a motion under this rule shall do so by serving and filing a Motion Regarding Case-Specific Management (“Individual Case Management Form”) pursuant to Superior Court Rule 9A. See Appendix of Forms to the Superior Court Rules, also available for download on the Superior Court’s website.
5. No proposal may extend any deadline beyond the date otherwise provided in Standing Order 1-88, unless the tracking order for that case is itself amended.
6. Any matter stipulated pursuant to paragraph 2, or order entered pursuant to paragraph 3, may be revised or vacated on motion or by the court on its own motion, for good cause.
7. Nothing in this rule limits or precludes the right of any party to request a conference pursuant to Mass. R. Civ. P. 16 with or without completion of an Individual Case Management Form. Nor does it limit any party’s right to request relief under any other statute, court rule, order or other law.

MOTION FOR CASE-SPECIFIC MANAGEMENT

GENERAL INSTRUCTIONS:

-This form is only for parties proposing or stipulating to a deviation from the standard rules governing this case. IF YOU DO NOT WANT TO MAKE ANY PROPOSAL, THEN YOU DO NOT NEED TO FILL OUT THIS FORM.

-YOU DO NOT NEED TO FILL IN ANY BLANKS UNLESS YOU WANT TO (except for case name, docket number and item (a) below). If you leave an item blank, then the usual court rules, orders, directives and policies will apply.

-Unless ALL parties agree, this document must be served upon all parties pursuant to Superior Court Rule 9A.

- If all parties agree to SOME items, but not others, then please submit TWO separate forms – one for all agreed-upon matters, and another as a *motion* for contested (or unagreed) matters.

IF YOU ARE REPRESENTING YOURSELF: Please be aware that some parts of this form involve giving up rights that may (or may not) be important for your protection. You may wish to learn more about these rights by, for instance, consulting an attorney or visiting the court's self- help website: www.mass.gov/courts/selfhelp.

CASE NAME (*required*): _____

DOCKET NUMBER (*required*): _____

a. (*Required*) This document is submitted by:

ALL PARTIES _____

THE FOLLOWING PARTIES ONLY:

b. EARLY COURT CONFERENCE - SCHEDULING

Do you request a scheduling or case management conference with the Court at this time?

YES _____ NO _____

IF YES:

IN-COURT CONFERENCE _____ (proposed dates (at 2 or 3 PM): _____)

PHONE CONFERENCE _____ (proposed dates (at 2 or 3 PM) _____)

c. JUDICIAL ASSESSMENT

Do you request a conference for the purpose of obtaining the session judge's non-binding assessment of this case?

YES _____ NO _____

IF YES:

Proposed dates at 2 or 3 PM: _____

d. IMMEDIATE SCHEDULING OF A PROMPT AND FIRM TRIAL DATE?

Do you want the Court to schedule a trial date at this time? YES _____ NO _____

Do you propose a specific Trial Date or Range of Trial Dates?

NOT AT THIS TIME: _____

PROPOSED TRIAL DATE(S): _____

If proposing a date, please predict the number of trial days (9 AM to 1 PM): _____

The Court will make every effort to accommodate an agreed-upon proposed trial date.

e. CHANGES TO STANDARD PRETRIAL DEADLINES?

Do you want changes in the deadlines for pretrial events (these cannot be longer than the standard tracking order for this case. See Superior Court Standing Order 1-88) or waiver of certain motions?

YES _____ NO _____

If yes: We/I propose the following

	Shorter Deadlines (please specify):	Waiver (Yes/No):
Rule 12, 15, 19 Motions	_____	_____
Discovery Deadline	_____	_____
Summary Judgment Served	_____	_____
Summary Judgment Filed	_____	_____
Final Pretrial Conference	_____	_____

If agreed, or approved by the court, this request will reassign this case to an Individual Track for purposes of Standing Order 1-88, instead of the track originally assigned to this case.

f. OTHER PROPOSALS FOR DISCOVERY, MOTIONS, TRIAL OR POST-TRIAL? (Superior Court Rule 20)

- | | | |
|--|-----------|----------|
| 1. Limits on discovery? | Yes _____ | No _____ |
| 2. Limits on motions/in-court appearances? | Yes _____ | No _____ |
| 3. Varying the format for jury or bench trial? | Yes _____ | No _____ |
| 4. Limiting Post-Trial Motions or Appeals? | Yes _____ | No _____ |
| 5. Other? | Yes _____ | No _____ |

If you have any "yes" answers, please explain what you propose (court approval of the proposal(s) may be required):

EACH OF THE PARTIES WHO SIGNS (BELOW) MOVES THAT THE COURT APPROVE THE ABOVE REQUESTS
AND ENTER AN ORDER ACCORDINGLY

[Signature Block]

[Signature Block]

[Signature Block]

COURT RULING:

APPROVED IN FULL and SO ORDERED: _____

DENIED: _____

APPROVED IN PART AND DENIED IN PART AS FOLLOWS:

Dated: _____, Justice of the Superior Court